

REMARKS

This is a Substitute Amendment and Response to the Official Action of November 3, 2005. In the Official Action, all claims were rejected for obviousness type double patenting over U.S. Patent No. 6,681,120 and U.S. Patent Application Serial No. 11/047,866. A Terminal Disclaimer was included in the original Amendment mailed November 18, 2005 pertaining to U.S. Patent No. 6,681,120 and is incorporated here along with all necessary fees authorized in the Amendment mailed November 18, 2005. A provisional Terminal Disclaimer is again not included with respect to U.S. Patent Application Serial No. 11/047,866 as this application is to be abandoned.

Multiple claims were rejected under 35 U.S.C. 112 as not supported by the current specification. These included claims 70-72, 80-91, 113-114 and 117-120. The basis for this rejection is that a music player, if considered separate, and a radio are not disclosed as being within the housing of the cell phone. This recited feature has been withdrawn from each of the foregoing claims either directly or through dependency on an amended claim. Additionally, claim 118 has been cancelled. At the same time, claim 147 has been added specifically reciting the inclusion of a radio receiver in the cell phone housing. To accommodate this addition, paragraph [0020] of the Specification has been amended to incorporate such teaching. This language is taken from prior U.S. Patent No. 6,278,884, incorporated by reference in specification paragraph [0001].

These claims were also amended to insure patentability based on the status of other claims addressed in the Official Action.

Before turning to rejections based on prior art, Applicant wishes to point out that many changes have been made to the claims, those not discussed in association with the prior art are, for clarity, creation of antecedent basis and reduction in means plus function language. Further, all reference to batteries has been removed as unnecessary since reciting a cellphone is sufficient.

Turning now to the rejections based on prior art, amendments have been made based on the guidance provided or inferred from the Examiner's position in the Official Action with the intention of removing all controversy in the hope of an early allowance. Where the remarks indicate that claims have been combined, changes have also been made to the combinations to avoid means plus function language and informalities.

Claim 122 is rejected as anticipated by Kubo, U.S. Patent No. 6,101,372. Claim 122 has been amended to indicate that the memory card is "replaceably installed directly in the cell phone". The Kubo card is encased in an adapter before achieving utility. Further, the present claims recite that the card has "prerecorded data comprised of either combined sounds and text or combined sounds and moving images." This limitation is fully inconsistent with the teaching of Kubo. As anticipation under Section 102 applies an objective test based on identity, Kubo can no longer support a *prima facie* case of anticipation against the amended claim.

Claims 27 through 31 were also rejected as anticipated under 35 U.S.C. 102 based upon Tendler, U.S. Patent No. 5,555,286. Claims 27 through 31 have been amended, either directly or through dependence on an amended claim, through the recitation of a camera in the housing of the cell phone. The camera is recited as being "operatively connected to said emergency button" occurring "upon actuating of said emergency button." Tendler fails to include this feature. As such, the objective test of identity for a *prima facie* case of anticipation is no longer possible in view of the amendment.

Claims 16, 17, 38, 49, 54, 59, 60, 84-86, 90-92, 118 and 124 were rejected under 35 U.S.C. 103 as unpatentable over Tendler in view of Kikinis, U.S. Patent No. 6,243,596. Of these rejected claims, claims 16, 17, 38, 84, 90-92, 118 and 124 have been cancelled. Additionally, claim 50, not rejected over prior art, has been incorporated into claim 49. Claim 55, also not rejected over prior art, has been included by amendment in claim 54. Claim 62, again not rejected over prior art, has been incorporated into claim 59. Similarly, claim 87 which was not rejected over prior art has been incorporated into claims 85 and 86. Remaining rejected claim 60 has been broadened in a number of respects upon which patentability is not based. At the same time, a memory card and socket have been added for storing sounds and images. The nature of the device is thus expanded, particularly in its capacity and entertainment possibilities. These features are not suggested, implied or motivated by these

references. As such, a *prima facie* case of obviousness cannot be sustained in light of the amended claim.

Claims 111, 112, 115, 116 and 121 were rejected under 35 U.S.C. 103 as unpatentable over Tendler, Kikinis, and Trahan et al., U.S. Patent No. 5,257,414 and further in view of Anderson, U.S. Patent No. 5,721,783. Claims 112 and 121 have been cancelled. Claims 111, 115 and 116 have been amended to more specifically recite the features of the memory card, its direct positioning in the device and the direct application of a spring for removal. These features are not found in the applied references and there is no teaching, suggestion or motivation therefor. Consequently, a *prima facie* case can no longer be sustained by the applied references.

Claims 24, 25 and 33 were rejected under 35 U.S.C. 103 as being unpatentable over Shin, U.S. Patent No. 6,006,109, in view of Lee et al., U.S. Patent No. 6,137,525. These rejected claims are based upon disclosure relating back to U.S. Patent No. 6,278,884, which had the original U.S. filing in the current family of cases. That application was filed April 25, 1997. Korean filings preceded the filing resulting in the '884 patent by a month to a month and a half. This priority is claimed particularly in claims 24, 25 and 33. The patent application resulting in Shin was filed in the United States on May 7, 1997, after the priority application to the present case. As such, Shin fails as prior art. With regard to the subject matter of the rejected claims, reference is made to the paragraph beginning on line 44 of column 2 in the '884 patent for support of

the present claims. Lee et al. was filed in this country on February 17, 1998. It too fails to qualify as a reference over claims 24, 25 and 33. As such, the rejection of these claims cannot be sustained.

Claims 140 and 141 were rejected under 35 U.S.C. 103(a) as unpatentable over Tendler in view of Oliver, EP Publication 0 830 002. The same position is to be applied regarding Oliver as applied with regard to Shin and Lee et al. The Oliver publication is dated March 18, 1998. The present application dates back to the filing of the application resulting in U.S. Patent No. 6,278,884. Again, reference is made to the paragraph in column 2 beginning on line 44. Tendler is unable to sustain the rejection by itself without image capture. Consequently, a *prima facie* case cannot be based on the references to Tendler in view of Oliver.

Lastly, claim 65 was rejected under 35 U.S.C. 103(a) as being unpatentable over Shin in view of Fujiwara, U.S. Patent No. 5,353,330. Claim 65 has incorporated the subject matter of claim 68 which was not rejected on prior art. As such, the rejection is avoided.

A specific basis upon which the applied references cannot sustain a *prima facie* case of either anticipation or obviousness has been presented for each rejection. Other bases for overcoming the references such as an inability to combine references has not been advanced because of the lack of need. These arguments are not waved in the event of an amendment to the basis for the rejections.

New claims 144 through 150 have been added. Claim 144 recites a memory card and socket with an asymmetry for proper orientation, engagement between the housing and the card and direct receipt of the card in the socket.

Claim 145 recites a cellphone using a replaceable memory card and has multiple entertainment capabilities.

Claim 146 recites a cellphone with a microprocessor capable of providing multiple audio and moving image functions including interaction between the cellphone and media functions to to enhance cellphone use.

Claim 147 depends from a substantial number of allowable claims and further adds a radio function to the claimed device.

Claim 148 recites the combination of a cellphone using a memory card and the capability through a microprocessor of reproducing continuing sounds and moving images.

Claim 149 recites the combination of a cellphone capable of handling sounds and at least one of moving images or sounds and moving images through special activation particularly advantageous in security applications.

Claim 150 recites a cellphone with multiple hands free operations and microprocessor manipulations of sound and moving images.

The undersigned contacted the Examiner on November 14, 2005, leaving a voice mail with the intention of clarifying the rejection under Section 112. Further, the

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undersigned indicated that a telephone conference is requested following review of this amendment in order that remaining issues can be resolved, if any. On November 15, 2005, the Examiner returned the call and the request for a telephone conference was reiterated if questions remain once the foregoing has been reviewed.

A favorable action on the merits of the pending claims is respectfully requested.

Respectfully submitted,

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